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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/822,773

03/30/2001

Robert F. Hofmann

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02/24/2004

EXAMINER

PAK, JOHN D

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ART UNIT

PAPER NUMBER

1616

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/822,773

Applicant(s)

HOFMANN ET AL.

Examiner

JOHN D PAK

Art Unit

1616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 January 0204 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

  
JOHN PAK  
PRIMARY EXAMINER  
GROUP 1600

009/822,773

Continuation of 2. NOTE: The claims have been improved, and they are close to being in condition for allowance, but there are still substantial changes that need to be made, the kind of changes that are too detailed for an Examiner's Amendment. The following changes are needed, based on the amendment of 1/20/04. Applicant is advised that since the 1/20/04 amendment has been denied entry, the next amendment must still use the previous version of the claims as the template from which to make amendatory changes. In addition to the changes applicant already made, these further changes are needed --

- (1) take out menthol as an alkene, because menthol does not have a double bond,
- (2) the weight percentage of the alkene set forth at the last paragraph of independent claims 1 and 31 should actually be for the reaction products resulting from oxidation of the alkene or oxidation of menthol,
- (3) claim 10 is confusing in that the alkene has already been set forth to a greater degree of specificity in the independent claim; same problem in claim 39,
- (4) claim 11, line 2, delete "comprises" and insert --- contains --- ; same change to claim 40,
- (5) claims 12 and 41 are confusing in that "a mixture of ozone and oxygen" should contain ozone and oxygen, not just ozone,
- (6) claims 17, 20 and 21, "an energy" or "the energy" is grammatically awkward; the Examiner suggests <sup>an/the</sup> --- energy source --- IF there is adequate descriptive support (i.e. if not new matter),  
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- (7) claim 27 appears indefinite in that it requires the article of claim 1 to contain "electrical current." The Examiner cannot understand what this means -- how can the first container or the second container somehow contain an electrical current. Does applicant instead mean to convey that the electrical current can be applied after the contents of the first container and second container are mixed? If so, such clarifying language should be used, but making sure that such clarifying language operates to modify the article per se,
- (8) Applicant is advised that changes mentioned above for one set of independent claim and its dependents are correspondingly applicable to the other set of independent claim and its dependents.

Continuation of 10. Other: Applicant is advised to file another after-final amendment that includes all of the changes in the 1/20/04 amendment and the changes suggested above in BOX 2.